

Application No. 09/932,239

NMTI 1002-3
(0747CON1)**REMARKS**

In the Official Action mailed 28 June 2004, the Examiner objected to the drawings for including reference numerals not mentioned in the specification, and for not including reference numerals set forth in the specification.

The examiner reviewed claims 1-15, 38-60 and 80-89. Claims 38-45 are allowed; claims 1-15 and 46-60 are rejected under 35 U.S.C. §112, second paragraph; claims 1, 2, 46, 47 and 80 are rejected under the judicially created doctrine of obviousness-type double patenting; claims 81-89 are objected to for being dependent upon a rejected base claim; and claims 3-15 and 48-60 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. §112, second paragraph, and to include all of the limitations of the base claim and any intervening claims.

Applicant has amended claims 1, 5, 6, 14, 39-46, 50 and 59. Claims 1-15, 38-60 and 80-89 remain pending.

Objection to the Drawings Under 37 C.F.R. §1.84(p)(5)

The Examiner has objected to the drawings as failing to comply with 37 C.F.R. §1.84(p)(5) because they do not include the following reference characters mentioned in the description: 16, 45, 46 and 170.

Reference character "16" has been changed in the specification to read "5" above. The "16" in the specification was a typographical error on the part of applicants.

Reference character "45" has been changed in the specification to read "48" above. The "45" in the specification was a typographical error on the part of applicants.

Reference character "46" has been changed in the specification to read "49" above. The "46" in the specification was a typographical error on the part of applicants.

Reference number "170" has been changed in the specification to read "117" above. The "170" in the specification was a typographical error on the part of applicants.

Objection to the Drawings Under 37 C.F.R. §1.84(p)(5)

The Examiner has objected to the drawings as failing to comply with 37 C.F.R. §1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 48, 49 and 117.

The specification has been amended above to change reference character "45" to "48" and reference character "46" to "49".

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The specification has been amended above to change reference character "170" to "117."

Rejection of Claims 1-15 and 46-60 under 35 U.S.C. §112, second paragraph

Claims 1-15 and 46-60 are rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said laying out" in line 8. There is insufficient antecedent basis for this limitation in the claim. Claim 1 has been amended herein to remove the word "said" thereby removing the need for an antecedent.

Claims 2-15 are rejected as being dependent upon claim 1. Reconsideration is respectfully requested in light of the above amendment to claim 1.

Claim 5 recites the limitation "said phase shift areas" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 5 has been amended herein to change "said phase shift areas" to "said phase shift windows" thereby referencing an appropriate antecedent in the base claim.

Claim 6 recites the limitation "said phase shift areas" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 6 has been amended herein to change "said phase shift areas" to "said phase shift windows" thereby referencing an appropriate antecedent in the base claim.

Claim 14 recites the limitation "said assigning phase shift values" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 14 has been amended herein to change "said assigning phase shift values" to "said assigning phase values" thereby referencing an appropriate antecedent in the base claim.

Claim 46 recites the limitation "said laying out" in line 8. There is insufficient antecedent basis for this limitation in the claim. Claim 46 has been amended herein to remove the word "said" thereby removing the need for an antecedent. Claims 47-60 are rejected as being dependent upon claim 46 (the Office Action actually said dependent on claim 1, but this appears to be a typographical error on the part of the Examiner). Reconsideration is respectfully requested in light of the above amendment to claim 46.

Claim 50 recites the limitation "said phase shift areas" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 50 has been amended herein to change

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"said phase shift areas" to "said phase shift windows" thereby referencing an appropriate antecedent in the base claim.

Claim 51 recites the limitation "said phase shift areas" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 51 has been amended herein to change "said phase shift areas" to "said phase shift windows" thereby referencing an appropriate antecedent in the base claim.

Claim 59 recites the limitation "said assigning phase shift values" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 59 has been amended herein to change "said assigning phase shift values" to "said assigning phase values" thereby referencing an appropriate antecedent in the base claim.

Accordingly, reconsideration of rejected claims 1-15 and 46-60 as amended is respectfully requested.

Rejection of Claims 1, 2, 46, 47 and 80 Under the Judicially Created Doctrine of Obviousness-Type Double Patenting

Claims 1, 2, 46, 47 and 80 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 24, 25 and 30 of U.S. Patent No. 6,733,929 to Pierrat.

Applicant includes herewith a Terminal Disclaimer to Patent 6,733,929.

Accordingly, reconsideration of rejected claims 1, 2, 46, 47 and 80 is respectfully requested.

Objection to Claims 81-89 as Being Dependent on Rejected Base Claim

Claim 81-89 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants addressed the rejection to the base claim 80 above. Accordingly, Applicants request that the objection to claims 81-89, depending from the base claim 80, be withdrawn.

Allowable Subject Matter

Claims 38-45 are allowed.

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Claims 3-15 and 48-60 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, second paragraph, and to include all of the base limitations of the base claim and any intervening claims. Applicants rewrote claims 5, 6, 14, 50, 51, and 59 to overcome the rejections under 35 U.S.C. 112, second paragraph. Applicants addressed the rejections under 35 U.S.C. 112, second paragraph to the base claims 1 and 46. Accordingly, Applicants request that the objection to claims 3-15, depending from the base claim 1, and to claims 48-60, depending from the base claim 46, be withdrawn.

Accordingly, reconsideration of claims 3-15 and 48-60 is respectfully requested.

CONCLUSION

It is submitted that this application is now in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fee determined to be due in connection with this communication, or credit any overpayment, to our Deposit Account No. 50-0869 (NMTI 1002-3).

Respectfully submitted,

Dated:

27/9/04

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